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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/717,571	11/21/2003	Koji Shigemura	1670.1020	9396
49455	7590	09/19/2006	EXAMINER	
STEIN, MCEWEN & BUI, LLP 1400 EYE STREET, NW SUITE 300 WASHINGTON, DC 20005			LIN, JAMES	
			ART UNIT	PAPER NUMBER
			1762	

DATE MAILED: 09/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/717,571

Applicant(s)

SHIGEMURA, KOJI

Examiner

Jimmy Lin

Art Unit

1762

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 06 September 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 14-19.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See attached sheet.
12. ☒ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). 7/26/2006
13. ☐ Other: _____.

DETAILED ACTION

1. Response to the Applicant's traverse of the restriction requirement:

The Applicant argues that the Examiner did not respond to the traverse of the restriction requirement in the Amendment of April 11, 2006 and only repeated the previous Examiner's response. However, the Examiner responded to the traverse by repeating the previous Examiner's response because the previous Examiner made a proper restriction requirement. The Applicant argued that the product of claim 3 comprises a mask that is "formed by electro-forming" and that if the mask were instead made by "etching a metal sheet" as proposed by the previous Examiner, the resulting product would no longer be the product as claimed. The Applicant, therefore, agrees that inventions I and II are distinct because the product as claimed can be made by another and materially different process. Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions require a different field of search (see MPEP § 808.02), restriction for examination purposes as indicated is proper.

2. Claim Objections

The Applicant argues that the limitation "the frame has a flat surface where the frame supports the one surface of the mask" (claim 14) refers only to a portion of the frame where the frame supports the one surface of the mask and that the limitation of "wherein the frame is flat on at least a side of the frame that supports the one surface of the mask" (previous claim 20) refers to a side of the frame that supports the one surface of the mask rather than just a portion of the frame where the frame supports the one surface of the mask. However, the limitation in previous claim 20 does not limit the side of the frame that supports the one surface of the mask to be an entire side. For example, given the broadest interpretation of previous claim 20, a side that has a depressed surface, wherein only the depressed surface supports the one surface of the mask, meets the limitation of previous claim 20. Martin '193 gives such an example in Fig. 7. See discussion of Utsugi '674, Ito '067, and Martin '193 below. Therefore, the claim allows for only a portion of the entire side of the frame to support the mask.

The Applicant argues that the limitation “the cover mask . . . has a flat surface where the cover mask supports the opposite surface of the mask” (claim 14) refers only to a portion of the cover mask where the cover mask supports the opposite surface of the mask, while the limitation “wherein the cover mask is flat on at least a side of the cover mask that supports the opposite surface of the mask” (previous claim 20) refers to a side of the cover mask that supports the opposite surface of the mask, rather than to just a portion of the cover mask where the cover mask supports the opposite surface of the mask. However, the same interpretation can be applied as discussed immediately above.

3. Claims 14-17 and 20 as rejected over Utsugi ‘674, Ito ‘067, and Martin ‘193.

The Applicant argues that the Examiner included claim 20 in the statement of the rejection of claims 14-17 and 20, but did not actually consider claim 20 in the final Office Action of June 6, 2006. However, the Examiner has considered claim 20 and is incorporated with the consideration of claim 14 because claim 20 does not further limit the parent claim.

The Applicant argues that the supporting frame 34 of Martin is not flat on at least a side that supports a surface of the mask 40’ because the supporting frame includes a raised ridge 38. However, the outer side of the supporting frame (i.e., the outer perimeter beyond the raised ridge) is flat.

The Applicant argues that the clamping member 88 of Martin is not flat on at least a side of the cover mask that supports the opposite surface of the metal foil 40’ because the side of the clamping member 88 (not clamping member 99 as indicated by the Applicant) includes the raised boss member 98. However, the outer side of the clamping member with the raised boss member is a flat surface.

The Applicant argues that Martin does not teach that the mask is made entirely nickel. However, the claim does not exclude a mask that is made of other elements and compounds in addition to nickel.

The Applicant argues that Martin does not disclose or suggest that the metal foil, the support frame, and the clamping member are joined together by welding in the embodiment of Fig. 7 of Martin. However, the Applicant agrees that Martin does teach the use of welding in the embodiments in Figs. 1-6. Martin clearly teaches that welding is a suitable method of

Art Unit: 1762


assembling a mask. One of ordinary skill in the art would have been motivated to weld the metal foil, the support frame, and the clamping member together because Martin teaches that such method of assembly is suitable in the art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jimmy Lin whose telephone number is 571-272-8902. The examiner can normally be reached on Monday thru Thursday 8 - 5:30 and Friday 8 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tim Meeks can be reached on 571-272-1423. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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TIMOTHY MEEKS
SUPERVISORY PATENT EXAMINER